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Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
REED, and COASTAL PROTECTION
RANGERS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

Plaintiffs,

CASE NO. 2:16-cv-02129-SJO (RAOx)

**DECLARATION OF SAMANTHA
WOLFF IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
INDIVIDUAL DEFENDANTS'
MOTIONS FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

1
2 v.

Judge: Hon. S. James Otero
Date: September 5, 2017
Time: 10:00 a.m.
Crtrm.: 10C

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
and N. F.; CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE JEFF
KEPLEY, in his representative
capacity; and DOES 1-10,

Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

12 Defendants.
13
14

15 I, SAMANTHA WOLFF, declare as follows:

16 1. I am an attorney duly admitted to practice before this Court. I am a
17 partner with Hanson Bridgett LLP, attorneys of record for Plaintiffs CORY
18 SPENCER, DIANA MILENA REED, and COASTAL PROTECTION RANGERS,
19 INC. I have personal knowledge of the facts set forth herein, except as to those
20 stated on information and belief and, as to those, I am informed and believe them to
21 be true. If called as a witness, I could and would competently testify to the matters
22 stated herein.

23 2. Attached hereto as Exhibit 1 is a true and correct copy of select
24 excerpts of the deposition transcript of **Steve Barber** taken in the instant action on
25 June 22, 2017.

26 3. Attached hereto as Exhibit 2 is a true and correct copy of select
27 excerpts of the deposition transcript of **Defendant Brant Blakeman** taken in the
28 instant action on November 21, 2016.

1 4. Attached hereto as Exhibit 3 is a true and correct copy of select
2 excerpts of the deposition transcript of **Defendant Angelo Ferrara** taken in the
3 instant action on October 28, 2016.

4 5. Attached hereto as Exhibit 4 is a true and correct copy of select
5 excerpts of the deposition transcript of **Defendant Charles Ferrara** taken in the
6 instant action on July 7, 2017.

7 6. Attached hereto as Exhibit 5 is a true and correct copy of select
8 excerpts of the deposition transcript of **Defendant Frank Ferrara** taken in the
9 instant action on July 10, 2017.

10 7. Attached hereto as Exhibit 6 is a true and correct copy of select
11 excerpts of the deposition transcript of **Defendant Alan Johnston** taken in the
12 instant action on July 28, 2017.

13 8. Attached hereto as Exhibit 7 is a true and correct copy of select
14 excerpts of the deposition transcript of **Defendant Jeff Kepley** taken in the instant
15 action on October 10, 2016.

16 9. Attached hereto as Exhibit 8 is a true and correct copy of select
17 excerpts of the deposition transcript of **Defendant Sang Lee** taken in the instant
18 action on May 31, 2017, including exhibits.

19 10. Attached hereto as Exhibit 9 is a true and correct copy of select
20 excerpts of the deposition transcript of **N.F.** taken in the instant action on July 6,
21 2017.

22 11. Attached hereto as Exhibit 10 is a true and correct copy of select
23 redacted excerpts of the deposition transcript of **Plaintiff Cory Spencer** taken in the
24 instant action on October 11, 2016.

25 12. Attached hereto as Exhibit 11 is a true and correct copy of select
26 excerpts of the deposition transcript of **Plaintiff Diana Milena Reed** taken in the
27 instant action on October 24 and 25, 2016.

28

1 13. Attached hereto as Exhibit 12 is a true and correct copy of the
2 Declaration of Bruce Bacon in Support of Plaintiffs' Motion for Class Certification
3 [Docket No. 168].

4 14. Attached hereto as Exhibit 13 is a true and correct copy of the
5 Declaration of John Carpenter in Support of Plaintiffs' Motion for Class
6 Certification [Docket No. 161].

7 15. Attached hereto as Exhibit 14 is a true and correct copy of the
8 Declaration of Chris Claypool in Support of Plaintiffs' Motion for Class
9 Certification [Docket No. 176].

10 16. Attached hereto as Exhibit 15 is a true and correct copy of the
11 Declaration of Kenneth Claypool in Support of Plaintiffs' Motion for Class
12 Certification [Docket No. 166].

13 17. Attached hereto as Exhibit 16 is a true and correct copy of the
14 Declaration of James Conn in Support of Plaintiffs' Motion for Class Certification
15 [Docket No. 174].

16 18. Attached hereto as Exhibit 17 is a true and correct copy of the
17 Declaration of Michael Alexander Gero in Support of Plaintiffs' Motion for Class
18 Certification [Docket No. 170].

19 19. Attached hereto as Exhibit 18 is a true and correct copy of the
20 Declaration of Jason Gersch in Support of Plaintiffs' Motion for Class Certification
21 [Docket No. 170].

22 20. Attached hereto as Exhibit 19 is a true and correct copy of the
23 Declaration of John Geoffrey Hagins in Support of Plaintiffs' Motion for Class
24 Certification [Docket No. 178].

25 21. Attached hereto as Exhibit 20 is a true and correct copy of the
26 Declaration of John Innis in Support of Plaintiffs' Motion for Class Certification
27 [Docket No. 165].
28

1 22. Attached hereto as Exhibit 21 is a true and correct copy of the
2 Declaration of Daniel Jongeward in Support of Plaintiffs' Motion for Class
3 Certification [Docket No. 177].

4 23. Attached hereto as Exhibit 22 is a true and correct copy of the
5 Declaration of Sef Krell in Support of Plaintiffs' Motion for Class Certification
6 [Docket No 180].

7 24. Attached hereto as Exhibit 23 is a true and correct copy of the
8 Declaration of Joseph Lanning in Support of Plaintiffs' Motion for Class
9 Certification [Docket No. 172].

10 25. Attached hereto as Exhibit 24 is a true and correct copy of the
11 Declaration of John MacHarg in Support of Plaintiffs' Motion for Class Certification
12 [Docket No. 160].

13 26. Attached hereto as Exhibit 25 is a true and correct copy of the
14 Declaration of Carl Marsch in Support of Plaintiffs' Motion for Class Certification
15 [Docket No. 179].

16 27. Attached hereto as Exhibit 26 is a true and correct copy of the
17 Declaration of Stephen Neushul in Support of Plaintiffs' Motion for Class
18 Certification [Docket No. 173].

19 28. Attached hereto as Exhibit 27 is a true and correct copy of the
20 Declaration of Peter Neushul in Support of Plaintiffs' Motion for Class Certification
21 [Docket No. 184-1].

22 29. Attached hereto as Exhibit 28 is a true and correct copy of the
23 Declaration of Victor Otten in Support of Plaintiffs' Motion for Class Certification
24 [Docket No. 159-3].

25 30. Attached hereto as Exhibit 29 is a true and correct copy of the
26 Declaration of Sharlean Perez in Support of Plaintiffs' Motion for Class Certification
27 [Docket No. 164].
28

1 31. Attached hereto as Exhibit 30 is a true and correct copy of the
2 Declaration of Diana Milana Reed in Support of Plaintiffs' Motion for Class
3 Certification [Docket No. 159-5].

4 32. Attached hereto as Exhibit 31 is a true and correct copy of the
5 Declaration of Benjamin Sionuit in Support of Plaintiffs' Motion for Class
6 Certification [Docket No. 308].

7 33. Attached hereto as Exhibit 32 is a true and correct copy of the
8 Declaration of Michael Sisson in Support of Plaintiffs' Motion for Class
9 Certification [Docket No. 169].

10 34. Attached hereto as Exhibit 33 is a true and correct copy of the
11 Declaration of Slatten in Support of Plaintiffs' Motion for Class Certification
12 [Docket No. 159-6].

13 35. Attached hereto as Exhibit 34 is a true and correct copy of the
14 Declaration of Cory Spencer in Support of Plaintiffs' Motion for Class Certification
15 [Docket No. 159-4].

16 36. Attached hereto as Exhibit 35 is a true and correct copy of the
17 Declaration of Blake Will in Support of Plaintiffs' Motion for Class Certification
18 [Docket No. 163].

19 37. Attached hereto as Exhibit 36 is a true and correct copy of the
20 Declaration of Andrew Willis in Support of Plaintiffs' Motion for Class Certification
21 [Docket No. 309].

22 38. Attached hereto as Exhibit 37 is a true and correct copy of the
23 Declaration of Stephen Young in Support of Plaintiffs' Motion for Class
24 Certification [Docket No. 167].

25 39. Defendant Charlie Ferrara is recorded in an audio conversation with
26 Plaintiff Diana Reed, a copy of which was previously produced as bates
27 PLTF002027. A true and correct copy of this audio recording, bates PLTF002027,
28 is Exhibit 38 to this declaration and is lodged separately with the court. *See*

1 Plaintiffs' Notice of Lodging. Additionally, I caused my office to transcribe the
2 conversation between Defendant Charlie Ferrara and Plaintiff Reed. This
3 transcription is attached as Exhibit 43.

4 40. Attached hereto as Exhibit 39 is a true and correct copy of Defendant
5 Lee's Cell Phone Records, which were produced in discovery pursuant to a
6 subpoena, at 0007, 0008, 0273-0275, indicating Sang Lee (at phone number 0699)
7 called Defendant Blakeman (at phone numbers 3917 and 7934) 62 times on January
8 29, 2016, the day Plaintiffs Spencer and Reed were intimidated, harassed, and
9 Plaintiff Spencer was attacked.

10 41. Attached hereto as Exhibit 40 is a true and correct copy of Defendant
11 Lee's Cell Phone Records, which were produced in discovery pursuant to a
12 subpoena, at 0007, 0008, 0267-0269, indicating that on January 29, 2016, Defendant
13 Sang Lee made a significant number of phone calls to Bay Boys, including Charlie
14 Mowat (9561) and David Melo (5878).

15 42. Attached hereto as Exhibit 41 is a true and correct copy of Alan
16 Johnston's Chat Messages, which were produced in discovery by Defendant
17 Johnston. This document was produced without bates numbers.

18 43. Attached hereto as Exhibit 42 is a true and correct copy of Defendant
19 Blakeman's Response to Plaintiff Diana Reed's First Set of Interrogatories,
20 Interrogatory No. 1 (identifying the last four digits of his cell phone number as
21 "7934") in response to an interrogatory requesting his cell phone number. At his
22 deposition, however, he testified under oath that the last four digits of his cell phone
23 were "7634." *See* Ex. 2 at 14:24-25.

24 44. From the Easy Reader News Website, I downloaded the following
25 article, a true and correct copy of which is attached as Exhibit A to Plaintiffs'
26 Request for Judicial Notice: Easy Reader News, February 6, 2014, Rachel Reeves,
27 "Lunada Bay localism faces a new challenge." This article is available online
28

1 through the Easy Reader News website at:

2 <https://www.easyreadernews.com/lunada-bay-localism-faces-new-challenge/>.

3 45. From The Los Angeles Times Website, I downloaded the following
4 article, a true and correct copy of which is attached as Exhibit B to Plaintiffs'
5 Request for Judicial Notice: The Los Angeles Times, May 8, 1995, Tony Perry,
6 "Turf Wars Spoil Sanctity of Southland Surf Beaches : Violence: Popularity leads to
7 crowding. Charges that one group attacked outsiders highlight the problem." This
8 article is available online through The Los Angeles Times website at:

9 http://articles.latimes.com/1995-05-08/news/mn-63795_1_lunada-bay.

10 46. From the LA Weekly Website, I downloaded the following article, a
11 true and correct copy of which is attached as Exhibit C to Plaintiffs' Request for
12 Judicial Notice: LA Weekly, May 9, 2016, Hillel Aron, "Can a Cop, a Model and
13 Two Lawyers Break a Surf Gang's 45-Year Grip on Lunada Bay?" This article is
14 available online through LA Weekly's website at:

15 [http://www.laweekly.com/news/can-a-cop-a-model-and-two-lawyers-break-a-surf-](http://www.laweekly.com/news/can-a-cop-a-model-and-two-lawyers-break-a-surf-gang-s-45-year-grip-on-lunada-bay-6902450)
16 [gang-s-45-year-grip-on-lunada-bay-6902450](http://www.laweekly.com/news/can-a-cop-a-model-and-two-lawyers-break-a-surf-gang-s-45-year-grip-on-lunada-bay-6902450).

17 47. On February 5, 2016, a Los Angeles Times photographer took a photo
18 on the bluffs of Lunada Bay of Defendant Brant Blakeman holding a video camera
19 and recording Ken Claypool and Christopher Taloa while they walked down to the
20 shoreline to go surfing. The photograph was included in an article that was
21 published by the Los Angeles Times on February 12, 2016, Garrett Therolf: "Bay
22 Boys' surfer gang cannot block access to upscale beach, Coastal Commission says."
23 During his deposition, Defendant Blakeman admitted that he is the man holding the
24 video camera in the photo. *See* Ex. 2 at 192:18-5. I downloaded this February 5,
25 2017 photograph from the Los Angeles Times Website at:

26 [http://www.latimes.com/local/california/la-me-surfer-gang-enforcement-20160211-](http://www.latimes.com/local/california/la-me-surfer-gang-enforcement-20160211-story.html)
27 [story.html](http://www.latimes.com/local/california/la-me-surfer-gang-enforcement-20160211-story.html), a true and correct copy of which is attached as Exhibit 44.

28 48. On January 29, 2016, while surfing at Lunada Bay, Plaintiff Cory

1 Spencer was run over in the water by a Bay Boy who was coordinating his attack
2 with Defendant Blakeman and other Bay Boys who were in the water and on the
3 shoreline. As a result of this attack, Plaintiff Spencer sustained a cut to his right
4 wrist, which resulted in an approximately half-inch scar. Attached as Exhibit 45 is a
5 true and correct copy of a photo depicting Plaintiff Spencer's right wrist. He is
6 pointing to the scar with the tip of a pen in the photo. This Exhibit was marked as
7 exhibit 43 during his deposition.

8 49. In the course of Plaintiffs' meet and confer discussions with counsel for
9 each of the Individual Defendants, Plaintiffs' counsel offered to stipulate to the
10 dismissal of the negligence cause of action against each Defendant, explaining that
11 discovery has revealed that Defendants' conduct to exclude, harass, intimidate, and
12 attack Plaintiffs was (and is) intentional. Counsel for Defendants Blakeman, Charlie
13 and Frank Ferrara, and Angelo Ferrara refused the proffered stipulation without any
14 explanation.

15 50. On November 16, 2016, my office served requests for production of
16 documents on Defendants Charlie and Frank Ferrara. These requests sought, among
17 other items, copies of each Defendant's cell phone bill from January 1, 2013 to
18 present. (*See*, Request For Production No. 40.) Plaintiffs also requested copies of
19 text messages or records of phone calls with a co-defendant in this matter. (Request
20 For Production No. 7.) Both Defendants responded that they did not have any
21 documents in response to the request seeking text messages or phone calls with a co-
22 defendant. A true and correct copy of Defendants' responses to Plaintiff Cory
23 Spencer's document requests are attached as Exhibit 46. Notably, however,
24 Defendants Charlie and Frank Ferrara's co-Defendant, Sang Lee, was served with an
25 identical request and responded with the production of a privilege log,
26 demonstrating numerous communications between these three Defendants. A true
27 and correct copy of Defendant Sang Lee's privilege log is attached as Exhibit 47.

28 51. Additionally, despite being served with document requests for cell

1 phone records in November 2016, I am informed and believe that neither Charlie
2 Ferrara nor Frank Ferrara attempted to obtain these documents until approximately
3 June or July 2017, despite numerous meet and confer discussions with their counsel
4 which commenced in January 2017. Indeed, Defendant Charlie Ferrara testified at
5 his July 7, 2017 deposition that he hasn't "really tried that hard" to locate his cell
6 phone bills. (Ex. 4 at 164:13-165:7.)

7 52. Despite subsequently being ordered by Magistrate Judge Oliver to
8 produce all cell phone bills and text messages (Docket No. 267), counsel for
9 Defendants Charlie and Frank Ferrara ignored the Court's order and failed to
10 produced Defendant Charlie Ferrara's cell phone data. Again, Magistrate Judge
11 Oliver ordered the production of Charlie Ferrara's cell phone data, observing that his
12 counsel "just chose not to produce all of it." (*See* Transcript of July 26, 2017
13 Telephonic Hearing, attached as Exhibit 48, at 17:7.) Notably, Defendant Charlie
14 Ferrara had already filed his motion for summary judgment, arguing Plaintiffs did
15 not possess sufficient evidence to prove their claims.

16 53. At the July 26, 2017 telephonic hearing, I advised the Court that
17 Defendants Charlie and Frank Ferrara's cell phone records only date back to
18 February 21, 2016, and are missing necessary data that is relevant to the dates the
19 Plaintiffs were harassed and attacked – January 29, 2016, February 5, 2016 and
20 February 13, 2016. It appears that because of Defendants' delay in seeking this
21 information from their cell phone carrier, this critical data was lost. Further,
22 Defendant Charlie Ferrara testified at his deposition that he has not done anything to
23 preserve the information that is on his phone, including photographs and text
24 messages. (*See* Ex. 4 at 172:25-4.) As Magistrate Judge Oliver observed at the July
25 26, 2017 hearing on this topic, "it is baffling" that Defendants ignored their
26 document preservation obligations altogether. (Ex. 48 at 14:5-25.)

54. Attached hereto as Exhibit 49 is a true and correct copy of select excerpts of the deposition transcript of **Plaintiff Tony Best** taken in the instant action on July 12, 2017.

55. Attached hereto as Exhibit 50 is a true and correct copy of select excerpts of the deposition transcript of **Christopher Taloa** taken in the instant action on January 5, 2017.

56. Attached hereto as Exhibit 51 is a true and correct copy of select excerpts of the deposition transcript of **Charles Thomas Mowat** taken in the instant action on July 21, 2017.

57. Attached hereto as Exhibit 52 is a true and correct copy of select excerpts of the deposition transcript of **Catherine Placek** taken in the instant action on June 23, 2017.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 7th day of August, 2017, at San Francisco, California.

/s/ Samantha Wolff
Samantha Wolff